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CLEARINGHOUSE RULE 97-009

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In general, this rule does not follow the administrative rules drafting format. It is suggested that the entire rule be reviewed to ensure compliance with the Manual.

b. The analysis prepared by the office is inadequate. Under s. 1.02 (2), Manual, the purpose of the analysis is to provide an understandable and objective description of the effect of the rule. The analysis is not intended to be an exhaustive discussion of the rule but should contain sufficient detail to enable the reader to understand the context of the rule and the changes made, if any, in the existing rule. A two sentence analysis certainly does not suffice.

c. The title to s. Ins 2.17 should be contained only in the text of s. Ins 2.17, rather than in the treatment clause of SECTION 1. Also, the title should be shown in the following fashion: “Ins 2.17 LIFE INSURANCE ILLUSTRATIONS REGULATION.”

d. In the third sentence of s. Ins 2.17 (1), the word “rule” should be replaced by the word “section.” In addition, the entire rule should be reviewed for the incorrect use of the phrase “this regulation.” The correct phrase is “this section.” [For example, see s. Ins 2.17 (3) (d).]

e. In s. Ins 2.17 (2) (c), the semicolon should be deleted and replaced by a period.

f. In s. Ins 2.17 (3) (a), actuarial standards board should not be capitalized, only the first word of a definition should be capitalized. Also, only “American” should be capitalized and “academy of actuaries” should not be capitalized. The entire rule should be reviewed to correct unnecessary capitalization.

g. In s. Ins 2.17 (3) (d), the definition is not in proper form. It contains substantive requirements contrary to s. 1.01 (7) (b), Manual.

h. In s. Ins 2.17 (3) (e), the quotation marks have been omitted preceding “whole life.”

i. In s. Ins 2.17 (3) (f), the definition of “guaranteed elements” and “non-guaranteed elements” should be created as separate definitions. This comment also applies to sub. (3) (h).

j. The definitions in s. Ins 2.17 (3) (g), (k) and (L) all contain additional substance contrary to s. 1.01 (7) (b), Manual.

k. In s. Ins 2.17 (3) (i), “Section 10” should be replaced by “sub. (10)” and the material beginning with “who certifies” through “board” should be deleted.

l. In s. Ins 2.17 (3) (k) 2., the use of the phrase “may be used” is structurally inconsistent with subds. 1. and 3. It appears that the phrase should be deleted and replaced by a comma.

m. In s. Ins 2.17 (3) (o), the use of parentheses should be avoided. Also, in the last sentence, the phrase “will include” should be replaced by the word “includes.”

n. In s. Ins 2.17 (4), the introductory material should be renumbered as par. (a), since this material does not grammatically lead into the following subunits. The remaining paragraphs should be renumbered accordingly. Also, in the newly renumbered par. (a), the phrase “the effective date of this section . . .” should be inserted before both occurrences of the phrase “[revisor inserts date].”

o. In s. Ins 2.17 (6) (a) 2. and 8., the material in parentheses beginning with “e.g.” should be included as a note. See also s. Ins 2.17 (9) (c).

p. In s. Ins 2.17 (6) (a) 13., the word “must” should be replaced by the word “shall.” Also, in sub. (6) (b), can appropriate numerical cross-references be substituted for, or added to, the phrase “under the applicable provisions of the Internal Revenue Code”? Finally, the structure of sub. (6) (c) should be amended. In subd. 1., to what does the phrase “on the 3 bases shown below” refer? An appropriate cross-reference is necessary. In subd. 5., the phrase “In addition, if” should be replaced by the word “If.” Also, in subd. 5., an appropriate cross-reference to the “3 bases” is necessary.

q. In s. Ins 2.17 (6) (d) and (e), the titles “statements” and “tabular detail” should be deleted. Titles are not provided for the other paragraphs in the section. [See s. 1.05 (1), Manual.] Also, in s. Ins 2.17 (6) (e), an introductory paragraph should be included to explain the tabular detail. Finally, in sub. (6) (e), the word “must” should be replaced by the word “shall.”

r. The headings for s. Ins 2.17 (7), (8), (9) and (10) are not in proper format. A subsection title should be written in solid capital letters with no underscore. [See s. 1.05 (2) (c), Manual.]

s. In s. Ins 2.17 (9) (a) 1. g., the phrase “subdivision paragraphs a. through f.” should be replaced by the phrase “subd. pars. a. to f.” See also sub. (9) (a) 1. h.

t. In s. Ins 2.17 (9) (a) 3., the quotation marks at the end of the sentence should be removed. Also, in sub. (9) (c), the cross-reference in the second sentence is incorrect. Finally, in the last sentence of sub. (9) (c), the phrase “shall be” should be replaced by the word “is.”

u. In s. Ins 2.17 (10) (c) 3., the introduction should conclude with the phrase “done any of the following.” Also, in sub. (10) (c) 4., the appropriate cross-reference is “subd. 3.” Finally, in sub. (10) (c) 5., two occurrences of the word “must” should be replaced by the word “shall.” Also, in the subdivision, it appears that in order to be consistent with the definition, the word “nonguaranteed” should be replaced by the word “non-guaranteed.”

v. In s. Ins 2.17 (7) (f), the introduction should conclude with the phrase “all of the following.” Also, in sub. (10) (f) 2., the cross-reference needs to be corrected.

w. In s. Ins 2.17 (11), a period should be inserted following the title.

x. Throughout the rule, the terms “insurer,” “producer” and “insurance producer” are used without definition and are used inconsistently. A definition should be created or a cross-reference should be made to the definitions if they exist within the Administrative Code.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Ins 2.17 (6) (a) 9., what does the phrase “close proximity” mean?

b. Section Ins 2.17 (6) (d) requires that certain statements shall be included on the same page as the numeric summary. What will occur if the numeric summary constitutes two or more pages? Also, the first subdivision requires the statement to be signed and dated by the applicant or policy owner but in subd. 2. the insurance producer or authorized representative of the insurer is required to state that the illustration has been presented to the applicant. Why is the policy owner omitted from this provision?

c. In s. Ins 2.17 (7) (d), what does the phrase “other important information” mean?

d. In s. Ins 2.17 (8) (b), “basic” should be inserted following “revised” in the second sentence.

e. In s. Ins 2.17 (9) (a), subd. 3. does not grammatically follow from the introduction. Paragraph (a) (intro.) should include a phrase similar to “Except as provided in par. (b).” The new par. (b) should contain the substance of par. (a) 3. The remaining paragraphs should be renumbered accordingly.

f. In s. Ins 2.17 (10) (d), an actuary is required to make a particular notice “promptly.” Why is this word used in such a vague fashion? See par. (e), which uses the phrase “within 10 days” and in which the word “promptly” should be deleted.

g. Section Ins 2.17 (11) would be stated more clearly if it read: “An insurer or producer that violates a requirement of this section is guilty of a violation of s. 628.34, Stats.”

h. With respect to SECTION 2 of the rule, see s. 1.02, Manual, for the appropriate method of expressing an effective date.